HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

WPSS No. 4874 of 2001

Jagat Singh
& another

Vs

State of Uttaranchal
& other

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 13.6.06

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 4874 (SS) OF 2001

1. Jagat Singh, S/o Puran Singh,
   R/o Village Mango, P.O. Sainamonur,
   Tehsil- Bhikiyasen, Distt. Almora.
2. Jaswant Singh, S/o Sri Pratap Singh,
   R/o Village and Post Peepna,
   Patti Malla Salt, Tehsil Bhikiyasen,
   District-Almora. .....Petitioners.

Versus

1. State of Uttaranchal, through Secretary,
   Education (Basic), Dehradun.
2. Principal, District Education and Training (D.I.E.T.),
   District Almora. .....Respondents.

Hon'ble Rajesh Tandon, J.

Heard counsel for both the parties at length.

2. By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondent to consider the degree of B.P.Ed. held by the petitioners from Nagpur University to be equal to the degree of U.P. and Uttaranchal according to the G.O. dated 16.03.1986.

3. At the admission, following interim order was passed on 10.09.2003:-

"Admit.

Learned Standing Counseh has accepted notice on bhelaf of respondents, who prays for and is allowed three weeks' time to file counter affidavit.

List this petition along with writ petition as ordered earlier.

Upon hearing thue parties counsel and considering the judgment of Division Bench of Allahabad High Court in Upendra Rai versus State of U.P. and others, reported in (2000)2 U.P. Local Bodies and Education Cases, page 1340 and the judgment of Apex Court in Suresh Pal and others versus State of Haryana and others reported in A.I.R. 1987 Supreme Court, page 2027, it is provided that the petitioners' candidature shall be considered for admission in Special B.T.C. and if they are selected, they shall be permitted to undertake the training. The result of the training shall be subject to the decision of writ petition."

4. In ***State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Sanstra Mahavidyalaya & Ors. 2006 AIR SCW 2048,*** the three Judge Bench of the Apex Court has held as under:-

> *"72. It is thus clear that the Central Government has considered the subject of Secondary Education and Higher Education at the national level. The Act of 1993 also requires Parliament to consider Teacher Education System 'throughout the country'. NCTE, therefore, in our opinion, is expected to deal with applications for establishing new B.Ed. colleges or allowing increase in intake capacity, keeping in view 1993 Act and planned and co-ordinated development of teacher-education system in the country. It is neither open to the State*

Government nor to a University to consider the local conditions or apply 'State Policy' to refuse such permission. In fact, as held by this Court in cases referred to hereinabove, State Government has no power to reject the prayer of an institution or to overrule the decision of NCTE. The action of the State Government, therefore, was contrary to law and has rightly been set aside by the High Court."

5. In ***R.N. College, Meerut Vs. Chancellor, B.R. Ambedkar University, Lucknow and others 2006 (2) ALJ 721 (D.B.)***, it has been held as under:-

"There is no provision under the Act by means of which an inference could be drawn that once the recognition is granted, the affiliation has to follow automatically. In the instant case, the Recognition was granted subject to affiliating university ensuring the appointment of thue teachers as per norms of NCTE.UGC/Affiliating University amongst other things. Thus, according to recognition order itself the matter for affiliation of the college with the university was to be examined by Chancellor/Vice Chancellor before grant of affiliation. The affiliation of a college is for the purpose of holding examination of the candidates while the recognition of an institution is for other purpose. When matter of affiliation has to be considered by University, it cannot be expected to act ion mechanical manner without application of mind. 'Recognition' and 'affiliation' are two different and independent things.

Thus, the plea cannot be accepted that affiliation by university after recognition by NCTE is to follow as a natural consequence."

6. Relying upon the judgment ***Krishnasamy reddiar Educational Trust v. Member Secretary National Council for Teacher Education and another, (2005), 4 SCC 89*** in ***National Council for Teacher Education & another Vs. Committee of Management & others, 2006 AIR SCW 1333,*** the apex Court has held as under:-

"18. We may notice that a Division Bench of this Court in Krishnasamy Reddiar Educational Trust v. Member Secretary, National Council for Teacher Education and another, reported in (2005) 4 SCC 89, opined that:

"It was submitted that in the present matters, all the appellants were applying for the first time and as such they were required to follow the Regulations in force, operative and applicable to fresh applications. In such cases, Notes (1) and (2) of Appendix 1-B (list is essential documents) will apply. Notes (1) and (2) read thus:

"(1) If the application is found incomplete i.e. with all the essential documents, the institution may be asked to make good deficiencies in the application on or before the last date prescribed in the Regulations.

(2) In the even when deficiencies in an application get removed only after the last date, the application of the institution shall be carried forward by the Regional Committee for consideration for the subsequent academic year i.e. for the course that would be offered one year later."

In our view, the respondents are right in submitting that there was delay on the part of the appellants. In all the three cases, applications were submitted without NOC from the State G0vernment. It has come on record that NOC was applied for belatedly. The State Government could not be blamed for not taking a decision on the applications of the appellants as under Regulation 6 as amended in 2003, it was required to dispose of such applications within six months of the last date of receipt of applications. Even prior to the amended Regulation 6, it was expected to take decision within "reasonable time" (four months) as held in St. Johns Teachers Training Institute. As the appellants applied for NOC in the last week of October, 2003, they cannot make complaint that the State Government delayed the matter. Admittedly, NOCs wer submitted to the respondent after the last date of application,. If in the above facts and circumstances, recognition has been granted by the respondent on 28-10-2004 by imposing a condition that it would be operative from academic year 2005-2006, it cannot be said that the respondent had acted illegally, arbitrarily or otherwise unreasonably."

21. Before parting with this case, we may place on record that it is categorically stated before us by Mr. Raju Ramachandran that the Council carried forward the application of the Institution for consideration of the subsequent academic year. An inspection has already been carried out and the eligibility of the first respondent to obtain such recognition shall be determined within a period of eight weeks from date. We place on record the aforementioned submissions of

the learned senior counsel appearing on behalf of the appellant."

7. Sri Sudhir Singh, Advocate for the National Council for Teacher Education has orally submitted that NCTE has been established under an Act of Parliament on August, 17th 1995 and has become empowered to recognize teacher education institutions from the session 1996-1997 and therefore, the candidates, who have been awarded degree diploma certificate etc. prior to this date by Universities/State Govt. may be got verified from the concerned University/State Govt. or association of Indian University.

8. The eligibility of the institution to grant the degree of Shiksha Visharad depends on the National Council for Teacher Education as contained in ***N.C.T.E. Vs. Committee of Management 2006 AIR SCW 1333.***

9. In view of the above, petitioners are not entitled for any relief except in accordance with the norms as stated above by the N.C.T.E.

10. Subject to the above recognition and verification as stated above, writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

13.06.2006
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